IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6043 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

G S R T CORPN

Versus

MH NAI

Appearance:

MR HARDIK C RAWAL for Petitioner

MR GK RATHOD for Respondent No. 1

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 17/10/2000

ORAL JUDGEMENT

#. The petitioner, State Road Transport Corporation, challenges the award of the Industrial Tribunal, Surat in Ref. (IT) No.5/1993 whereby the order imposing punishment upon the respondent is set aside on the ground that the misconduct alleged against the respondent was not proved.

#. After appreciating the evidence on record the Tribunal has recorded the finding of fact that no person who was an eye witness to the accident was examined during the course of departmental inquiry and the respondent was held to be guilty only on the basis of the statement of the reporter. It was also noted that the respondent was acquitted in the criminal proceeding arising from the same accident. Accordingly, the charge against the respondent having not been proved either in the departmental inquiry or before the Industrial Court. It was held that the order imposing punishment on the basis of such misconduct could not be sustained.

#. The Learned Counsel for the petitioner has vehemently argued that it was impossible that the respondent driver could not have seen the bullock cart going ahead of his bus and the negligence of the respondent ought to have been the matter of inference. In this context, the respondent's defence is already on record according to which the respondent was dazzled by the light of vehicle coming from the opposite direction. In the result, the petitioner has failed to make out any case for interfering with either the finding of fact or the resultant order in exercise of the powers of this court under Article 226 or 227 of the Constitution. The petition is, therefore, dismissed. Rule is discharged with no order as to costs. Interim relief stands vacated.

kks